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COMMISSIONERS
GARY PIERCE, Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR



ORIGINAL

SECURITIES DIVISION
1300 West Washington, Third Floor
Phoenix, AZ 85007
TELEPHONE: (602) 542-4242
FAX: (602) 594-7470
E-MAIL: securitiesdiv@azcc.gov

ARIZONA CORPORATION COMMISSION

MEMORANDUM

TO: Gary Pierce, Chairman
Bob Stump
Sandra D. Kennedy
Paul Newman
Brenda Burns

FROM: Matthew J. Neubert *WJN*
Director of Securities

DATE: January 27, 2011

RE: Proposed Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties and Consent to Same by Charlevoix Homes LLC and Michael Roberts (S-20755A-10-0342)

CC: Ernest G. Johnson, Executive Director

Arizona Corporation Commission
DOCKETED

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AZ CORP COMMISSION
DOCKET CONTROL

Attached is a proposed Order to Cease and Desist, Order for Restitution, Order for Administrative Penalties and Consent to Same by Charlevoix Homes LLC and Michael Roberts ("collectively referred to as "Roberts Respondents"). The Order requires the Roberts Respondents to cease and desist their activity, pay restitution in the amount of \$5,577,226.59 and pay an administrative penalty in the amount of \$150,000.

The Roberts Respondents were a home developer who received funds from investors solicited by Five Star Capital Markets, LLC, James Piccolo and Craig Cottrell. Investors were to receive eighteen percent interest annually on their investments. The investments were to be secured by a second Deed of Trust or a lien on lots. Neither second Deed of Trust nor any liens were ever recorded for the benefit of the investors.

The Securities Division believes this Consent is in the best interest of the public.

Originator: Wendy Coy

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE, Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

In the matter of

FIVE STAR CAPITAL MARKETS, LLC, a
Nevada limited liability company,

JAMES PICCOLO and MARY
ELIZABETH PICCOLO, husband and wife,

CRAIG COTTRELL, CRD# 4552833, and
ANDREA COTTRELL, husband and wife,

CHARLEVOIX HOMES LLC, an Arizona
limited liability company,

and

MICHAEL ROBERTS, an unmarried man,

Respondents.

DOCKET NO. S-20755A-10-0342

DECISION NO. _____

**ORDER TO CEASE AND DESIST, ORDER
FOR RESTITUTION, ORDER FOR
ADMINISTRATIVE PENALTIES AND
CONSENT TO SAME
BY: RESPONDENTS CHARLEVOIX HOMES
LLC AND MICHAEL ROBERTS**

CHARLEVOIX HOMES LLC and MICHAEL ROBERTS ("Respondents") elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this Order To Cease and Desist, Order For Restitution, Order For Administrative Penalties and Consent To Same ("Order"). CHARLEVOIX HOMES LLC and MICHAEL ROBERTS admit the jurisdiction of the Arizona Corporation Commission ("Commission"); neither admit nor deny the Findings of Fact and Conclusions of Law contained in this Order; and consent to the entry of this Order by the Commission.

I.

FINDINGS OF FACT

1
2
3 1. CHARLEVOIX HOMES LLC ("CHARLEVOIX") was, at all relevant times, an
4 Arizona limited liability company organized on February 26, 2003. On November 9, 2009, the
5 Commission administratively dissolved CHARLEVOIX. At all relevant times, MICHAEL
6 ROBERTS was the sole manager/member of CHARLEVOIX.

7 2. MICHAEL ROBERTS ("ROBERTS"), an unmarried man, is a resident of Scottsdale,
8 Arizona. At all relevant times, the offering documents provided to offerees and investors stated that
9 ROBERTS was the president and CEO of CHARLEVOIX.

10 3. CHARLEVOIX was an Arizona homebuilder that built several real estate
11 developments in Arizona. The funds raised from investors were to be used to fund the
12 development costs for one of the CHARLEVOIX developments.

13 4. JAMES PICCOLO ("PICCOLO") negotiated with ROBERTS to allow FIVE STAR
14 CAPITAL MARKETS, LLC ("FIVE STAR") to offer the Charlevoix Note (as defined below)
15 including negotiating the commissions that FIVE STAR would receive.

16 5. Between October 2005 and November 2006, Nouveau Riche Corporation
17 ("Nouveau Riche") operated as "an educational company that educates people on real estate --
18 residential real estate investing." Nouveau Riche conducted a series of classes on "dealing with
19 residential real estate." Nouveau Riche sold home study programs and held seminars known as
20 "Intensives" throughout the United States. Intensives were usually two-day seminars held
21 throughout the United States to promote Nouveau Riche educational programs. CRAIG
22 COTTRELL ("COTTRELL"), an instructor at Nouveau Riche, conducted some of the Intensives.

23 6. In the fall of 2005, as a benefit to the Nouveau Riche students, FIVE STAR, through
24 COTTRELL, offered Nouveau Riche students who attended some of the Intensives an investment
25 opportunity to purchase notes in CHARLEVOIX real estate developments. Those Nouveau Riche
26 students interested in making an investment received a document titled "Loan Agreement"

1 (“Charlevoix Notes”). The Charlevoix Notes set forth the terms of the investment including the
2 expected return, the collateral and the maturity date.

3 7. On October 1, 2005, after an Intensive, FIVE STAR and COTTRELL sent each of
4 the attendees an email offering the attendees the opportunity to invest in the Charlevoix Notes
5 ahead of other Nouveau Riche students. The email stated that “Jim [PICCOLO], Mike
6 [ROBERTS] and I [COTTRELL] are very excited to share this fantastic offer with our community”
7 and “the Phoenix Nouveau Riche community is the first to get the chance to act on the incredible
8 ‘Charlevoix Homes’ opportunity before next Tuesday’s nationwide conference call with Jim
9 Piccolo, Mike Roberts (CEO of Charlevoix Homes) and myself.”

10 8. The October 1, 2005, email also included a link to a power point presentation that
11 further explained the Charlevoix Notes.

12 9. Furthermore, the October 1, 2005, email requested that people interested in making
13 the investment in the Charlevoix Notes should “make [their] payments out to ‘Charlevoix Homes’
14 and mail or deliver (remember this is first come/first serve) them to [COTTRELL] . . .” at FIVE
15 STAR’s Scottsdale, Arizona, address.

16 10. On October 11, 2005, another email was sent to each of the prospective investors
17 and provided another internet link for a “presentation that explains this exciting opportunity in
18 detail including financials.” The email also provided a website link to obtain a copy the
19 Charlevoix Notes.

20 11. Once the Nouveau Riche students sent their funds to FIVE STAR and COTTRELL,
21 COTTRELL would notify CHARLEVOIX. CHARLEVOIX would then mail the Charlevoix Notes
22 to investors. One of the terms of the Charlevoix Notes was a return of eighteen percent (18%) per
23 annum. CHARLEVOIX and ROBERTS received the investors’ funds from FIVE STAR.

24 12. The investors were told by CHARLEVOIX and ROBERTS that the Charlevoix
25 Notes were to be secured either by a “2nd Deed of Trust held on behalf of all investors by Five Star
26

1 Capital Markets” or by a “lien on lots.” No second deed of trust or lien for the benefit of the
2 investors, either individually or for the benefit of FIVE STAR, was ever recorded.

3 13. The Charlevoix Notes offering documents provided to investors stated that the
4 investments were guaranteed by a “Charlevoix Home Corporate guarantee.” However, there was
5 no Charlevoix guarantee.

6 14. From October 2005 through November 2006, Charlevoix Notes were sold to 105
7 investors who invested \$5,616,226.59.

8 15. From October 2005 through November 2006, CHARLEVOIX and ROBERTS were
9 not registered as a securities dealers or salesmen with the Commission.

10 16. COTTRELL was a securities salesman with Source Capital Group between May 12,
11 2006 and November 2006, during which time COTTRELL offered and sold the Charlevoix Notes.

12 17. The Charlevoix Notes were not registered with the Commission.

13 18. CHARLEVOIX and ROBERTS misrepresented to offerees and investors that the
14 investments in Charlevoix Notes were guaranteed by a “corporate guarantee” from
15 CHARLEVOIX when, in fact, there was no corporate guarantee.

16 II.

17 CONCLUSIONS OF LAW

18 1. The Commission has jurisdiction over this matter pursuant to Article XV of the
19 Arizona Constitution and the Securities Act.

20 2. CHARLEVOIX and ROBERTS offered or sold securities within or from Arizona,
21 within the meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

22 3. CHARLEVOIX and ROBERTS violated A.R.S. § 44-1841 by offering or selling
23 securities that were neither registered nor exempt from registration.

24 4. CHARLEVOIX and ROBERTS violated A.R.S. § 44-1842 by offering or selling
25 securities while neither registered as a dealer or salesman nor exempt from registration.
26

1 5. CHARLEVOIX and ROBERTS, directly or indirectly, violated A.R.S. § 44-1991 by
2 (a) employing a device, scheme, or artifice to defraud, (b) making untrue statements or misleading
3 omissions of material facts, or (c) engaging in transactions, practices, or courses of business that
4 operate or would operate as a fraud or deceit.

5 a. CHARLEVOIX and ROBERTS misrepresented to offerees and investors that the
6 investments in the Charlevoix Notes were guaranteed by a "corporate
7 guarantee" in CHARLEVOIX when, in fact, there was no corporate guarantee.

8 b. CHARLEVOIX and ROBERTS misrepresented to offerees and investors that the
9 Charlevoix Notes were secured by a second deed of trust held on behalf of the
10 investors by FIVE STAR or a lien recorded on the lots for the benefit of
11 investors. There was no second deed of trust recorded for the benefit of FIVE
12 STAR investors or any liens recorded on the lots to benefit the investors.

13 6. ROBERTS directly or indirectly controlled persons or entities within the meaning of
14 A.R.S. § 44-1999, including but not limited to CHARLEVOIX. Therefore, ROBERTS is jointly and
15 severally liable under A.R.S. § 44-1999 to the same extent as CHARLEVOIX for any violations of
16 A.R.S. § 44-1991.

17 III.

18 ORDER

19 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and
20 CHARLEVOIX's and ROBERTS' consent to the entry of this Order, attached and incorporated by
21 reference, the Commission finds that the following relief is appropriate, in the public interest, and
22 necessary for the protection of investors:

23 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that CHARLEVOIX and ROBERTS and
24 any of their agents, employees, successors and assigns, permanently cease and desist from violating
25 the Securities Act.

1 IT IS FURTHER ORDERED that CHARLEVOIX and ROBERTS comply with the attached
2 Consent to Entry of Order.

3 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that CHARLEVOIX and
4 ROBERTS, along with any respondent against whom an order is entered under Docket No. S-
5 20755A-10-0342, are jointly and severally liable to pay restitution to the Commission in the
6 principal amount of \$5,577,226.59. Payment is due in full on the date of this Order. Payment shall
7 be made to the "State of Arizona" to be placed in an interest-bearing account controlled by the
8 Commission. Any principal amount outstanding shall accrue interest at the rate of 10 percent per
9 annum from the date of the Order until paid in full.

10 The Commission shall disburse the funds on a pro-rata basis to investors shown on the
11 records of the Commission. Any restitution funds that the Commission cannot disburse because an
12 investor refuses to accept such payment, or any restitution funds that cannot be disbursed to an
13 investor because the investor is deceased and the Commission cannot reasonably identify and
14 locate the deceased investor's spouse or natural children surviving at the time of the distribution,
15 shall be disbursed on a pro-rata basis to the remaining investors shown on the records of the
16 Commission. Any funds that the Commission determines it is unable to or cannot feasibly disburse
17 shall be transferred to the general fund of the state of Arizona.

18 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that CHARLEVOIX and
19 ROBERTS, jointly and severally, shall pay an administrative penalty in the amount of \$150,000.
20 Payment is due in full on the date of this Order. Payment shall be made to the "State of Arizona."
21 Any amount outstanding shall accrue interest as allowed by law.

22 IT IS FURTHER ORDERED that payments received by the state of Arizona shall first be
23 applied to the restitution obligation. Upon payment in full of the restitution obligation, payments
24 shall be applied to the penalty obligation.

25 ...

26 ...

For purposes of this Order, a bankruptcy filing by CHARLEVOIX¹ or ROBERTS² shall be an act of default. If CHARLEVOIX and ROBERTS do not comply with this Order, any outstanding balance may be deemed in default and shall be immediately due and payable.

IT IS FURTHER ORDERED, that if CHARLEVOIX and ROBERTS fail to comply with this order, the Commission may bring further legal proceedings against them, including application to the superior court for an order of contempt.

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¹ On August 18, 2008, CHARLEVOIX HOMES LLC filed for protection under Chapter 7 of the U.S. Bankruptcy Code.

² On July 15, 2008, Michael Roberts filed for protection under Chapter 7 of the U.S. Bankruptcy Code. Mr. Roberts received a discharge on January 1, 29, 2009.

IT IS FURTHER ORDERED that no finding of fact or conclusion of law contained in this Order shall be deemed binding against any Respondent under this Docket Number who has not consented to the entry of this Order.

IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2011.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Shaylin A. Bernal, ADA Coordinator, voice phone number 602-542-3931, e-mail sabernal@azcc.gov.

(wlc)

CONSENT TO ENTRY OF ORDER

1
2 1. CHARLEVOIX HOMES LLC and MICHAEL ROBERTS admit the jurisdiction of
3 the Commission over the subject matter of this proceeding. CHARLEVOIX HOMES LLC and
4 MICHAEL ROBERTS acknowledge that they have been fully advised of their right to a hearing to
5 present evidence and call witnesses and they knowingly and voluntarily waive any and all rights to
6 a hearing before the Commission and all other rights otherwise available under Article 11 of the
7 Securities Act and Title 14 of the Arizona Administrative Code. CHARLEVOIX HOMES LLC
8 and MICHAEL ROBERTS acknowledge that this Order To Cease and Desist, Order For
9 Restitution, Order For Administrative Penalties and Consent To Same ("Order") constitutes a valid
10 final order of the Commission.

11 2. CHARLEVOIX HOMES LLC and MICHAEL ROBERTS knowingly and
12 voluntarily waive any right under Article 12 of the Securities Act to judicial review by any court by
13 way of suit, appeal, or extraordinary relief resulting from the entry of this Order.

14 3. CHARLEVOIX HOMES LLC and MICHAEL ROBERTS acknowledge and agree
15 that this Order is entered into freely and voluntarily and that no promise was made or coercion used
16 to induce such entry.

17 4. CHARLEVOIX HOMES LLC and MICHAEL ROBERTS understand and
18 acknowledge that they have a right to seek counsel regarding this Order, and that they have had the
19 opportunity to seek counsel prior to signing this Order. CHARLEVOIX HOMES LLC and
20 MICHAEL ROBERTS acknowledge and agree that, despite the foregoing, CHARLEVOIX
21 HOMES LLC and MICHAEL ROBERTS freely and voluntarily waive any and all right to consult
22 or obtain counsel prior to signing this Order.

23 5. CHARLEVOIX HOMES LLC and MICHAEL ROBERTS neither admit nor deny
24 the Findings of Fact and Conclusions of Law contained in this Order. CHARLEVOIX HOMES
25 LLC and MICHAEL ROBERTS agree that they shall not contest the validity of the Findings of
26 Fact and Conclusions of Law contained in this Order in any present or future proceeding in which

1 the Commission or any other state agency is a party concerning the denial or issuance of any
2 license or registration required by the state to engage in the practice of any business or profession.

3 6. By consenting to the entry of this Order, CHARLEVOIX HOMES LLC and
4 MICHAEL ROBERTS agree not to take any action or to make, or permit to be made, any public
5 statement denying, directly or indirectly, any Finding of Fact or Conclusion of Law in this Order or
6 creating the impression that this Order is without factual basis. CHARLEVOIX HOMES LLC and
7 MICHAEL ROBERTS will undertake steps necessary to assure that all of their agents and
8 employees understand and comply with this agreement.

9 7. While this Order settles this administrative matter between CHARLEVOIX
10 HOMES LLC and MICHAEL ROBERTS and the Commission, they understand that this Order
11 does not preclude the Commission from instituting other administrative or civil proceedings based
12 on violations that are not addressed by this Order.

13 8. CHARLEVOIX HOMES LLC and MICHAEL ROBERTS understand that this
14 Order does not preclude the Commission from referring this matter to any governmental agency for
15 administrative, civil, or criminal proceedings that may be related to the matters addressed by this
16 Order.

17 9. CHARLEVOIX HOMES LLC and MICHAEL ROBERTS understand that this
18 Order does not preclude any other agency or officer of the state of Arizona or its subdivisions from
19 instituting administrative, civil, or criminal proceedings that may be related to matters addressed by
20 this Order.

21 10. CHARLEVOIX HOMES LLC and MICHAEL ROBERTS agree that they will not
22 apply to the state of Arizona for registration as securities dealers or salesmen or for licensure as an
23 investment adviser or investment adviser representative until such time as all restitution and
24 penalties under this Order are paid in full.

25 11. CHARLEVOIX HOMES LLC and MICHAEL ROBERTS agree that they will not
26 exercise any control over any entity that offers or sells securities or provides investment advisory

1 services within or from Arizona until such time as all restitution and penalties under this Order are
2 paid in full.

3 12. MICHAEL ROBERTS agrees that he will continue to cooperate with the Securities
4 Division including, but not limited to, providing complete and accurate testimony at any hearing in
5 this matter and cooperating with the state of Arizona in any related investigation or any other
6 matters arising from the activities described in this Order.

7 13. CHARLEVOIX HOMES LLC and MICHAEL ROBERTS consent to the entry of
8 this Order and agree to be fully bound by its terms and conditions.

9 14. CHARLEVOIX HOMES LLC and MICHAEL ROBERTS acknowledge and
10 understand that if they fail to comply with the provisions of the order and this consent, the
11 Commission may bring further legal proceedings against them, including application to the superior
12 court for an order of contempt.

13 15. CHARLEVOIX HOMES LLC and MICHAEL ROBERTS understand that default
14 shall render them liable to the Commission for its costs of collection and interest at the maximum
15 legal rate.

16 16. CHARLEVOIX HOMES LLC and MICHAEL ROBERTS agree and understand
17 that if they fail to make any payment as required in the Order, any outstanding balance shall be in
18 default and shall be immediately due and payable without notice or demand. CHARLEVOIX
19 HOMES LLC and MICHAEL ROBERTS agree and understand that acceptance of any partial or
20 late payment by the Commission is not a waiver of default by the Commission.

21 ...

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23 ...

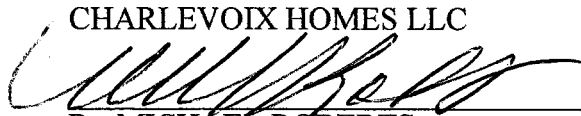
24 ...

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17. MICHAEL ROBERTS represents that he is manager of CHARLEVOIX HOMES LLC and has been authorized by CHARLEVOIX HOMES LLC to enter into this Order for and on behalf of it.


MICHAEL ROBERTS

CHARLEVOIX HOMES LLC

By MICHAEL ROBERTS
Its Manager

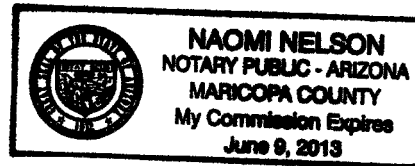
STATE OF ARIZONA)
) ss
County of Maricopa)

SUBSCRIBED AND SWORN TO BEFORE me this 19th day of January, 2011.


NOTARY PUBLIC

My commission expires:

June 9, 2013



SERVICE LIST FOR:

Five Star Capital Markets, LLC, James Piccolo, Mary Elizabeth Piccolo, Craig Cottrell, Andrea Cottrell, Charlevoix Homes LLC and Michael Roberts

NAME & ADDRESS

Jeffrey Matura
Graif Barrett & Matura, PC
1850 N. Central Ave., Ste. 500
Phoenix, Arizona 85004
Attorneys for Five Star Capital Markets, LLC,
James Piccolo and Mary Elizabeth Piccolo
Craig Cottrell and Andrea Cottrell

Michael Roberts
8711 E. Pinnacle Peak Rd., #213
Scottsdale, Arizona 85525